

APS-160

March 10, 2005

**UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT**

C.A. No. 04-4541

05 MC 54

IN RE: WILLIAM TATEM

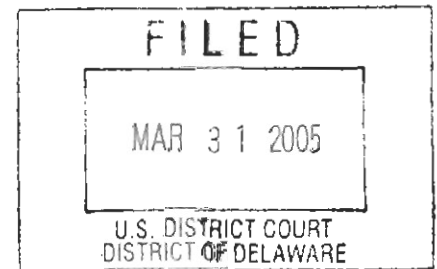
Present: SLOVITER, NYGAARD AND FUENTES, CIRCUIT JUDGES

Submitted are:

- (1) Petitioner's application pursuant to 28 U.S.C. § 2244 to file a second or successive habeas corpus petition; and
- (2) Respondent's opposition thereto in the above-captioned case.

Respectfully,

Clerk



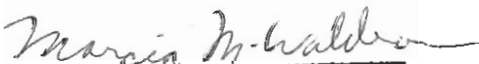
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ORDER

The foregoing application pursuant to 28 U.S.C. § 2244(b) to file a second or successive habeas petition is denied. In re Minarik, 166 F.3d 591, 602 (3d Cir. 1999). Petitioner does not satisfy the pre-AEDPA abuse-of-writ standard because (a) he has not shown cause and prejudice for failing to raise his claims in his prior petitions, McCleskey v. Zant, 499 U.S. 467, 494 (1991); see also Minarik, 166 F.3d at 604 (recognizing that cause must be "some objective factor external to the defense"); Lambert v. Blackwell, 387 F.3d 210, 247 (3d Cir. 2004) (recognizing that federal habeas proceedings are not proper forum to raise claims of error in state post-conviction proceedings); and (b) he has not demonstrated his actual innocence, Schlup v. Delo, 513 U.S. 298, 324, 329 (1995). Furthermore, Petitioner does not satisfy the AEDPA standard. 28 U.S.C. § 2244(b)(2).

A True Copy:

By the Court,

  
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Marcia M. Waldron,  
Clerk

/s/ Richard L. Nygaard  
Circuit Judge

Dated: March 30, 2005

SLC/cc: Mr. William Tatem, Jr. #SBI-00088005

Loren C. Meyers, Esq.